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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

November 2, 1998

OUR FILE NO.
1057-101-63

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
Washington, D.C. 20554

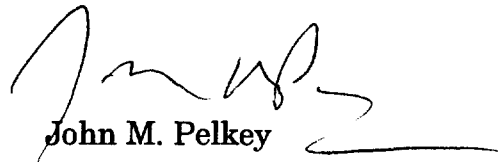
Re: Amendment of Section 73.202(b)
Linn, Missouri
MM Docket No. 98-164
RM 9357

Dear Ms. Salas:

Transmitted herewith on behalf of R. Lee and Sarah H. Wheeler are an original and four copies of Comments to be filed in the above-referenced rulemaking.

If there are any questions concerning this matter, please contact this office directly.

Sincerely,


John M. Pelkey

JMP/ned
Enclosures: (5)
cc: Ms. Kathleen Scheuerle, FCC

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Before The
Federal Communications Commission
Washington, D.C. 20554

NOV - 2 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b))	
Table of Allotments)	MM Docket No. 98-164
FM Broadcast Stations)	RM 9357
Linn, Missouri)	

To: Chief, Allocations Branch

Comments of R. Lee and Sarah H. Wheeler

By Petition for Rulemaking filed July 10, 1998, R. Lee and Sarah H. Wheeler (referred to herein as the "Wheelers") requested that the Commission institute a rulemaking proceeding to amend Section 73.202(b) of the Commission's rules, the Table of FM Allotments, by allotting Channel 276A to Linn, Missouri, as that community's first commercial channel. In response, the Commission released a Notice of Proposed Rulemaking ("*NPRM*") in the above-captioned proceeding, proposing the requested change to the Table of Allotments and soliciting the submission of comments by November 2, 1998. See *NPRM*, MM Docket No. 98-164 (RM-9357), DA 98-1797.

The Wheelers, through counsel, hereby submit their comments in response to the *NPRM*. As will be shown below, the proposed rulemaking is consistent with Commission policy and would advance the public interest. Accordingly, the proposed rulemaking should be adopted.

I. Background and Reaffirmation of Commitment to Apply for and Construct Facility

In their Petition for Rulemaking, which is hereby incorporated by reference, the Wheelers requested that the Table of Allotments be amended to allocate Channel 276A to Linn, Missouri. The Wheelers committed that, if the proposed amendment to the Table of Allotments were adopted, they would promptly apply for an authorization to construct the new facility.¹ The Wheelers hereby reaffirm that earlier commitment and, in accordance with paragraph 2 of the Appendix to the *NPRM*, specifically state their intention to apply for Channel 276A if that channel is allocated to Linn, Missouri, and, if authorized, to promptly construct the new facility, place the facility in operation, and seek a license covering the construction of the facility.

Linn, Missouri, is an incorporated city with a mayor and city council form of government. The population of Linn, according to the

¹ *Petition for Rulemaking* at 3.

1990 U.S. census, is 1,211 persons. Linn has its own post office with its own zip code, 65051. It is also the county seat of Osage County, Missouri, which has a population of 12,018 persons. It has its own police and fire departments. In addition, the Osage County Sheriff's Department is based in Linn. The educational needs of its citizens are met by the Linn R-2 school district, which instructs students in kindergarten through 12th grade. Parochial education is provided by the St. George School, while higher education needs are served by the Linn State Technical College.

Linn provides its citizens with water and sewer needs through a municipally owned water treatment plant and sewage plant. Linn has a municipal park with an additional park that is presently under construction. Medical needs for the community are provided by the Linn Family Health Care Center, as well as several independent physicians and dentists. Linn has numerous businesses, including new car dealers, banks, restaurants, grocers and video tape rental outlets.

Despite Linn's status, no broadcast facilities of any type are allocated to the community. Allocation of Channel 276A would remedy this deficiency.

II. Allocation of Channel 276A to Linn is Consistent with Commission Policy and is in the Public Interest.

In Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094, 7096 (1990), the Commission held that provision of first local service is the highest of the allotment priorities which remains in any significant degree unsatisfied. The allocation to Linn would permit Linn to receive its first local aural channel, thus serving this highest of allotment priorities.

In addition, as was explained in paragraph 3 of the *NPRM*, Channel 276A can be allotted to Linn consistent with the minimum distance separation requirements of the Commission's rules and without a site restriction.

III. Conclusion

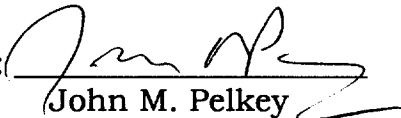
The above facts demonstrate that the Commission's allocation criteria would be served by the allocation of Channel 276A to Linn, Missouri, as such allocation would provide that community with its first local aural transmission facility. Inasmuch as the allocation to Linn complies with all separations requirements and can be accomplished with no site restriction, thus permitting city grade coverage of all of Linn, the proposal is consistent in all respects with the Commission's rules.

Accordingly, R. Lee and Sarah H. Wheeler respectfully request that the Table of FM Allotments be amended as follows:

Community	Present Allotment	Proposed Allotment
Linn, Missouri	- -	276A

Respectfully submitted,

R. LEE AND SARAH H. WHEELER

By: 
John M. Pelkey
Its Attorney

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Date: November 2, 1998